

LFC Requester:**Julia Downs****AGENCY BILL ANALYSIS
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*Original ☒ Amendment ☐
Correction ☐ Substitute ☐**Date** January 14, 2016**Bill No:** HB72**Sponsor:** Reps. Gentry and P.A. Pacheco**Agency Code:** 305**Short** Allow Use of Juvenile**Person Writing** Rick Word**Title:** Disposition and Evidence**Phone:** 827-6029**Email** rword@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

Section 1 of HB 72 would add a new section of the Criminal Procedure Act allowing a court, when considering the setting of bail or other conditions of release of a person charged with an offense, to consider the juvenile disposition of a youthful offender and any evidence given in a court hearing relating to the juvenile disposition when setting bail or other conditions of release.

Section 2 of HB 72 would amend NMSA 1978, Section 32A-2-18 of the Delinquency Act to add a new sub-section that expressly permits a judge rendering a sentence pursuant to Section 31-18-15 to consider the juvenile disposition of a youthful offender as well as any evidence given in a court for a youthful offender. This subsection would also permit such disposition and evidence to be presented during a hearing held pursuant to NMSA 1978, Section 31-18-15.1 to consider whether to alter a basic sentence.

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

By allowing the consideration of a juvenile disposition and evidence given in juvenile proceedings in subsequent criminal proceedings involving the same person, HB 72 potentially conflicts with a stated purpose of the Delinquency Act. The Delinquency Act identifies as the first of numerous purposes the following: "[C]onsistent with the protection of the public interest, to remove from children committing delinquent acts the adult consequences of criminal behavior..." NMSA 1978, Section 32A-2-1(A). Allowing courts to consider the juvenile disposition of a youthful offender and evidence given at hearings relating to such a disposition in later cases where that individual is charged as an adult could thus be perceived as contrary to one of the principal purposes of the Delinquency Act.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See Significant Issues.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None noted.